

*Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.*

## Proposed Rulemakings

### LAYOFF NOTICES

The DEPARTMENT OF LABOR proposed an amendment to the Part titled Illinois Workers Adjustment and Retraining Notification Act (56 IAC 230; 46 Ill Reg 8009) implementing PA 102-662. The PA and the rulemaking require owners of investor-owned power plants and coal mines to provide 2 years' notice to plant/mine employees and officials before a mass layoff, relocation or other employment loss takes effect. (The Act and this Part normally require 60 days' notice to workers of a mass layoff or plant closing.)

#### ■ VICTIMS OF VIOLENCE

DOL also proposed an amendment to the Part titled Victims' Economic Security and Safety Act (56 IAC 280; 46 Ill Reg 8014) implementing statutory changes that expand the

### COVID-19 ACTIONS

Executive Orders of the Governor concerning the COVID-19 public health emergency can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

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protections of the Act to victims of gender violence or any other crime of violence (currently, domestic violence and sexual violence). This rulemaking also applies the Act to any employer with at least one employee, and requires employees to submit a signed statement affirming that they are a victim of violence, along with

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## Adopted Rules

### DEVELOPMENTAL SCREENING

The DEPARTMENT OF PUBLIC HEALTH adopted a new Part titled Socio-Emotional and Developmental Screening (77 IAC 664; 45 Ill Reg 12238) effective 5/5/22, implementing amendments made to the School Code by PA 99-927, which requires DPH to promulgate rules regarding age-appropriate social, emotional, and developmental screenings of school-aged children using validated screening tools appropriate to a child's age or grade. DPH will post on its website the approved screening tools that may be used. Petitions to add new screening tools may also be submitted to DPH via its website. Screenings in schools may be administered only by licensed physicians, physician assistants, advanced practice registered nurses, licensed clinical

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**ADOPTED RULES:** Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.  
**PROPOSED RULES:** Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.  
**PEREMPTORY RULES:** Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.  
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.  
**QUESTIONS/COMMENTS:** Submit mail, email or phone calls to the agency personnel listed below each summary.  
**RULE TEXT:** Available on the Secretary of State ([www.cyberdriveillinois.com](http://www.cyberdriveillinois.com)) and General Assembly ([www.ilga.gov](http://www.ilga.gov)) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

# Adopted Rules

(cont. from page 1)

psychologists, or licensed clinical social workers. Screenings shall be scheduled in conjunction with the required child health exams/school physicals administered to children within 1 year prior to entering preschool, kindergarten or 1<sup>st</sup> grade, 6<sup>th</sup> grade, and 9<sup>th</sup> grade in any public or non-public school, or upon entering any new school. If documentation of a completed screening is not presented to the school by Oct. 15 of the school year for which the screening is to be conducted, school personnel may offer the child an opportunity to be screened with the consent of the child's parent or guardian. However, a child cannot be excluded from school due to failure to complete the screening and screening results will not be included in the student's school records. Those affected by this rulemaking include schools and medical providers that perform developmental screenings.

## ■ MC/DD FACILITIES

DPH also adopted amendments to Medically Complex for the Developmentally Disabled Facilities Code (77 IAC 390; 46 Ill Reg 299) effective 5/6/22, updating numerous provisions affecting facilities that serve developmentally disabled persons with medically complex conditions requiring ongoing specialized medical care.

## Identifying Offenders

The rulemaking requires persons age 18 or older who are seeking admission to an MC/DD facility to complete a determination of need screening and a criminal history background check, including checks of the Illinois and national sex offender registries, prior to admission. Effective 1/1/22, facilities must screen all current residents to determine if they are listed in the Department of Corrections or Illinois State Police sex offender databases. If a resident is identified as an offender, a fingerprint-based criminal background check must be conducted. If an identified offender is living in a facility, other residents, staff and families of residents must be notified, steps taken to insure that the resident does not pose a threat (e.g., separating the offender from other residents), and the offender's plan of care updated at least quarterly. An offender that cannot be managed safely within a facility must be discharged and the facility to which the offender is transferred must be notified of the offender's status.

## Penalties

The rulemaking adds statutory provisions establishing penalties of up to \$10,000 for operating an MC/DD facility without a license; willfully including false or misleading information in any document filing required under the MC/DD Act; interfering with any inspection, survey or evaluation (e.g., by concealing records or

retaliating against a resident or employee who cooperates with an investigation); or interfering with efforts to correct violations.

## Distressed Facilities

Facilities with violations that have caused actual harm to residents may be designated as "distressed facilities" based on a point system that takes into account the type and number of violations occurring within the previous 24 months. DPH will maintain a list of distressed facilities and update the list on a quarterly basis. A distressed facility may hire an independent consultant to assist it in implementing an improvement plan; the facility will have 90 days to develop the plan and another 90 days to achieve compliance with DPH rules. If the facility fails to meet these timelines or does not hire a consultant, DPH will appoint a monitor or temporary manager to oversee an improvement plan. A distressed facility not in compliance with this Part will be prohibited from admitting new residents until DPH has verified it is in compliance. A facility will be removed from the distressed list when it has completed at least 2 annual surveys without being cited for any serious violations, harm to residents, or other aggregate violations that place it in the "distressed" category.

## Other Provisions

The rulemaking also adds and updates infection control protocols

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# Proposed Rulemakings

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supporting documentation if available. Small businesses and non-profits with at least one employee may be affected.

## ■ EQUAL PAY

Finally, DOL proposed amendments to the Part titled Equal Pay in Employment (56 IAC 320; 46 Ill Reg 8023) implementing Section 11 of the Equal Pay Act of 2003, which requires businesses that have more than 100 employees and file annual reports with the federal Equal Employment Opportunity Commission to apply to DOL for equal pay registration certificates every 2 years. This rulemaking establishes timelines for affected businesses and DOL to fulfill this requirement; establishes how equal pay data must be reported to the DOL; clarifies what it means to be in compliance with wage laws; and establishes that DOL, after giving notice of a violation, must provide 30 days for an employer to come into compliance. The rulemaking also outlines the processes for DOL to notify an employer that an application for a certificate has been rejected, or that a certificate has been suspended or revoked, and for an affected business to appeal these decisions. Provisions and requirements for employees of large private businesses to request data concerning pay for their job classification or title are also established. Other provisions

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## ■ MENTAL HEALTH

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted emergency amendments to Medical Payment (89 IAC 140; 46 Ill Reg 8348) effective 5/2/22 for a maximum of 150 days. An identical proposed rulemaking appears in this week's *Illinois Register* at 46 Ill Reg 7977. The emergency and proposed rulemakings implement PA 102-16 by establishing Violence Prevention Community Support Teams (VP-CSTs) as a team-based mental health service that provides trauma recovery services to children and adults who have experienced chronic exposure to firearm violence. Team members include qualified mental health professionals (QMHPs), mental health professionals, and rehabilitative services associates as defined in existing rule, plus a new category of peer support workers (PSWs). APSW must be at least 21 years old; have personal experience with

behavioral health needs, or experience as a parent of a child with behavioral health needs; demonstrate ability to work with the team; and complete a Department-approved training/certification process. VP-CST services must be available 24 hours a day, 7 days a week; be delivered by a Community Mental Health Center or Behavioral Health Clinic; and the team must be under the supervision of a full-time QMHP. Services available to VP-CST participants must include individual, group and family therapy/counseling; individual and group community support services; and proactive engagement by a PSW. Those affected by these rulemakings include mental health centers and clinics.

*Questions/requests for copies/ comments on the proposed rulemaking through 7/5/22: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Floor, Springfield IL 62763-0002, [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov)*

## Peremptory Rule

### STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted a peremptory amendment to Pay Plan (80 IAC 310; 46 Ill Reg 8414) effective 5/3/22, implementing a memorandum of understanding that assigns the Boiler Safety Supervisor and Retirement Benefit

Systems Technician I and II titles to an AFSCME bargaining unit and pay grade.

*Questions/requests for copies: Jason R. Doggett, CMS, 504 Stratton Building, Springfield IL 62706, 217/782-4267, Fax: 217/524-4570, [CMS.PayPlan@Illinois.gov](mailto:CMS.PayPlan@Illinois.gov)*

# Adopted Rules

(cont. from page 2)

and procedures for responding to outbreaks of communicable disease. Other provisions update definitions and incorporations by reference; establish qualifications for direct support persons (DSPs); update provisions regarding use of psychotropic medications and physical restraints; clarify how various violations and penalties will be determined or waived; address municipal licensing of MC/DD facilities; prohibit residents from being referred to unlicensed home health or home services agencies; require facilities to notify DPH within 24 hours after receiving a strike notice involving direct care personnel and submit a staffing contingency plan to DPH at least 3 days in advance of the threatened strike; and require facility-specific e-mail addresses, not to be changed without advance notice to DPH, for communications with the Department. Changes since 1<sup>st</sup> Notice include restoring the existing cutoff date of 3/1/80 between construction standards for existing facilities and construction standards for new facilities and removing references to a mentoring program for distressed facilities (since DPH has not yet established this program in rule).

## ■ DPH HEARINGS

Finally, DPH adopted amendments to Practice and Procedure in Administrative Hearings (77 IAC 100; 45 Ill Reg 16176) effective 5/5/22, updating

its administrative hearing rules to align with current or preferred practices. The rulemaking extends these hearing rules to proceedings arising under the MC/DD Act, the ID/DD Community Act, and the Specialized Mental Health Rehabilitation Act, in addition to proceedings arising under the Nursing Home Care Act, the Emergency Medical Service (EMS) Systems Act, the Asbestos Abatement Act, and Illinois Plumbing License Law. The proposed amendments change procedures for prehearing conferences and evidentiary hearings led by Administrative Law Judges; prohibit filing any documents that contain personal information, such as Social Security or Medicare or Medicaid numbers; allow for documents to be filed in electronic formats; and encourage use of electronic mail to serve documents. Those affected by this rulemaking include individuals with administrative hearings or appeals before DPH.

*Questions/requests for copies of the 3 DPH rulemakings: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, (217)782-1159, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)*

## EDUCATOR PREPARATION

The STATE BOARD OF EDUCATION adopted amendments to Standards for School Support Personnel Endorsements (23 IAC 23; 45 Ill Reg 15605) and Standards for Endorsements in Specific Teaching Fields (23 IAC 27; 45 Ill

Reg 15784), effective 5/2/22. The Part 23 rulemaking updates a link and cross references to the American Association for Marriage and Family Therapy Code of Ethics. The Part 27 rulemaking adds an Elementary Mathematics Specialist endorsement and provides a link to national preparation standards for applicable programs.

## TEACHER EVALUATION

SBE also adopted amendments to Evaluation of Educator Licensed Employees Under Articles 24A and 34 of the School Code (23 IAC 50; 45 Ill Reg 15877) effective 5/2/22, implementing PA 102-252. The rulemaking requires tenured teachers to be evaluated every 3 (formerly 2) years, except for teachers rated as “needs improvement” or “unsatisfactory”, who must be reevaluated at least once in the following school year. Effective 9/1/22, school districts must adopt teacher evaluation plans requiring tenured teachers who are rated “excellent” or “proficient” to be formally evaluated at least once during the 3 school years following receipt of that rating and informally observed at least once during the 2 school years following that rating. The rulemaking also clarifies that qualified evaluators must complete retraining at least once every 5 fiscal years.

*Questions/requests for copies of the 3 SBE rulemakings: Azita Kakvand, SBE, 555 W. Monroe St., Suite 900, Chicago IL 60661, 312/783-2757, [rules@isbe.net](mailto:rules@isbe.net)*



# Proposed Rulemakings

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allow electronic payment of fines and fees and add recordkeeping requirements for compliance with PA 100-1140, which prohibits employers with 4 or more employees from discriminating against African-American employees with regard to pay (this provision affects small businesses).

*Questions/requests for copies/ comments on the 3 DOL rulemakings through 7/5/22: Anna Koeppel, DOL, 524 S. Second St., Suite 400, Springfield IL 62701, 217/558-1270, [Anna.Koeppel@illinois.gov](mailto:Anna.Koeppel@illinois.gov)*

## CHILD CARE

The DEPARTMENT OF HUMAN SERVICES proposed an amendment to Child Care (89 IAC 50; 46 Ill Reg 7979) that extends, through 6/30/23, temporary Child Care Assistance Program (CCAP) eligibility of up to 3 months for parents who are seeking the employment, education or training normally required for CCAP eligibility. This provision had been scheduled to expire on 6/30/22.

## AABD ELIGIBILITY

DHS also proposed an amendment to Aid to the Aged, Blind or Disabled (89 IAC 113; 46 Ill Reg 7996) increasing the asset exemption for prepaid funeral and burial funds to \$7,248 (currently, \$6,774) per individual, or \$14,496 per married couple.

*Questions/requests for copies/ comments on the 2 DHS rulemakings through 7/5/22: Tracie Drew, DHS, 100 S. Grand Ave. East, 3<sup>rd</sup> Floor, Springfield IL 62762, 217/785-9772.*

## STATE POLICE OFFICERS

The STATE POLICE MERIT BOARD proposed amendments to Procedures of the Department of State Police Merit Board (80 IAC 150; 46 Ill Reg 8066) that remove a provision limiting disciplinary action for violation of Illinois State Police rules and regulations to 3 years after the violation. The rulemaking also removes medical history as a subject of background investigations of police candidates and adds disciplinary provisions for violations of Sections 12.6 (offenses requiring automatic termination, e.g., felony convictions) and 12.7 (offenses for which termination is discretionary, e.g., excessive use of force) of the State Police Act. Other provisions clarify the authority of the SPMB Director to suspend officers; allow the Director to designate other personnel to exercise this authority; require notification to an officer of pending disciplinary action to include the specific conduct that violated ISP rules or regulations; and clarify various aspects of the disciplinary process and procedures by which an officer can petition for a review of a pending disciplinary action.

*Questions/requests for copies/ comments through 7/5/22: Daniel Dykstra, SPMB, 531 Sangamon*

*Ave. East, Springfield IL 62702, fax: 217/786-0181, [ddykstra@ispmmeritboard.org](mailto:ddykstra@ispmmeritboard.org)*

## SALES TAXES

The DEPARTMENT OF REVENUE proposed an amendment to Retailers' Occupation Tax (86 IAC 130; 46 Ill Reg 8044) clarifying that interest on unpaid sales tax due on and after 1/1/01 applies only to the unpaid tax, not to any penalty. Small businesses that owe unpaid sales tax may be affected.

*Questions/requests for copies/ comments through 7/5/22: Alexis K. Overstreet, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.*

## LIBRARY SYSTEMS

The SECRETARY OF STATE proposed an amendment to the Part titled The Illinois Library System Act (23 IAC 3030; 46 Ill Reg 8058) raising the competitive bidding threshold for library system procurements from \$20,000 to \$25,000 to match the statutory threshold for public library procurement.

*Questions/requests for copies/ comments through 7/5/22: Joseph Natale, SOS, Gwendolyn Brooks Building, Springfield IL 62701-1796, 217/558-1745, [jnatale@ilsos.gov](mailto:jnatale@ilsos.gov)*

## JCAR Meeting Action

At its 5/17/22 meeting, the Joint Committee on Administrative Rules took the following actions:

### RECOMMENDATION

With regard to the Department of Public Health rulemaking titled Intermediate Care Facilities for the Developmentally Disabled Code (77 Ill. Adm. Code 350; 46 Ill Reg. 2419), JCAR recommends that DPH be more timely in implementing statutory changes in rule. DPH has waited nearly 12 years to reflect the establishment of the ID/DD Community Care Act in this Part and has waited nearly 11 years to enact in rule criteria for determining whether an ICF/DD facility is a distressed facility under the Act.

### EXTENSION

JCAR, with the concurrence of the Illinois Environmental Protection Agency, extended the Second Notice period for the rulemaking titled Alternate Fuels Program (35 IAC 275; 46 Ill Reg 3073) an additional 45 days. This rulemaking will be considered again at the June 14 JCAR meeting.

### POSTPONEMENTS

JCAR postponed action on the Department of Children and Family Services rulemakings titled Licensing Standards for Child Welfare Agencies (89 IAC 401; 46 Ill Reg 653), Licensing Standards for Group Homes (89 IAC 403; 46 Ill Reg 657) and Licensing Standards for Child Care Institutions and Maternity Homes (89 IAC 404; 46 Ill Reg 661) by removing them from the No Objection list. These rulemakings will be reconsidered at the June 14 meeting. (The current Second Notice period for these rulemakings extends through the June meeting).

JCAR postponed action on the Department of Public Health emergency repealer titled Control of Communicable Diseases Code (77 IAC 690; 46 Ill Reg 6968) by removing this rulemaking from the No Objection list. JCAR has also requested that DPH clarify issues that have been raised to JCAR members and staff concerning this rulemaking (which repealed emergency rules instituting COVID-19 exclusion protocols for K-12 schools, in response to a JCAR Objection and Suspension of the previous emergency rules).

## Joint Committee on Administrative Rules

**Senator Bill Cunningham, *co-chair***      **Representative Tom Demmer**

**Senator John F. Curran**      **Representative Michael Halpin**

**Senator Donald DeWitte**      **Representative Frances Ann Hurley**

**Senator Kimberly Lightford**      **Representative Steven Reick**

**Senator Tony Muñoz**      **Representative Curtis Tarver, II**

**Senator Sue Rezin**      **Representative Keith Wheeler, *co-chair***

**Kim Schultz**  
**Executive Director**

## Second Notices

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The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The Secretary of State rulemaking was considered at the May 17, 2022, JCAR meeting; the remaining rulemakings will be considered at the June 14, 2022, JCAR meeting in Chicago. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

### SECRETARY OF STATE

Issuance of Licenses (92 IAC 1030; 46 Ill Reg 1332) proposed 1/14/22

### DEPT OF FINANCIAL & PROFESSIONAL REGULATION

Transmitters of Money Act (38 IAC 205; 46 Ill Reg 3898) proposed 3/11/22

### DEPT OF INSURANCE

Acquisition of Control of a Domestic Company (50 IAC 651; 46 Ill Reg 1562) proposed 1/21/22

Securities Regulation (50 IAC 913; 46 Ill Reg 1578) proposed 1/21/22

Management Information Reports (50 IAC 915; 46 Ill Reg 1589) proposed 1/21/22)

### DEPT OF LABOR

Minimum Wage Law (56 IAC 210; 45 Ill Reg 10255) proposed 8/13/21

### DEPT OF REVENUE

Secure Choice Savings Program Act (86 IAC 950; 46 Ill Reg 4841) proposed 3/18/22

### IL HOUSING DEVELOPMENT AUTHORITY

Rental Housing Support Program (47 IAC 380; 46 Ill Reg 3952) proposed 3/11/22

### IL STUDENT ASSISTANCE COMMISSION

General Provisions (23 IAC 2700; 46 Ill Reg 2863) proposed 2/18/22

Illinois Veteran Grant (IVG) Program (23 IAC 2733; 46 Ill Reg 2881) proposed 2/18/22

Displaced Energy Worker Dependent Transition Scholarship Program (23 IAC 2746; 46 Ill Reg 2889) proposed 2/18/22

Community Behavioral Health Care Professional Loan Repayment Program (23 IAC 2753; 46 Ill Reg 2897) proposed 2/18/22

Nurse Educator Loan Repayment Program (23 IAC 2758; 46 Ill Reg 2903) proposed 2/18/22

Illinois Special Education Teacher Tuition Waiver (SETTW) Program (23 IAC 2765; 46 Ill Reg 2908) proposed 2/18/22

Illinois Teacher and Child Care Providers Loan Repayment Program (23 IAC 2767; 46 Ill Reg 2917) proposed 2/18/22

### STATE BOARD OF EDUCATION

Educator Licensure (23 IAC 25; 45 Ill Reg 15659) proposed 12/17/21

Mentoring Program for New Principals (23 IAC 35; 46 Ill Reg 1717) proposed 1/28/22

New Teacher Induction and Mentoring (23 IAC 65; 46 Ill Reg 1731) proposed 1/28/22